

# Duquesne Law Review

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Volume 46  
Number 1 *A Tribute to the Honorable Carol Los  
Mansmann*

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Article 3

2007

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### Recommended Citation

Ken Gormley, *Carl Los Mansmann: Lawyer, Judge, and Public Servant*, 46 Duq. L. Rev. 5 (2007).  
Available at: <https://dsc.duq.edu/dlr/vol46/iss1/3>

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## Carol Los Mansmann: Lawyer, Judge, and Public Servant

*Ken Gormley\**

Even four decades after she graduated from Duquesne University School of Law, Carol Los Mansmann's career in law and public service continues to inspire a legion of lawyers and judges touched by her example. Despite her untimely death of breast cancer in 2002, at the age of fifty-nine, Judge Mansmann's legacy lives on, as evidenced by this special issue of the *Duquesne Law Review* dedicated to her myriad, impressive contributions. Many of those lawyers and jurists who knew Carol Mansmann best have contributed to this special issue. It speaks volumes that Justice Samuel Alito of the United States Supreme Court has volunteered to write the introduction to this rich, historical collection of articles. Within the pages of this issue, readers will find contributions from giants of the legal profession, whose careers were enriched by Judge Mansmann in extraordinary ways.

Senior U.S. Circuit Judge Ruggero J. Aldisert, who served as Chief Judge of the Third Circuit Court of Appeals during Carol Mansmann's tenure on that court, writes movingly of Carol's early years on the federal appeals bench and of her unmistakable Pittsburgh roots.

Judge D. Brooks Smith of the Court of Appeals for the Third Circuit, who previously served as Chief Judge of the U.S. District Court for the Western District of Pennsylvania, describes how he was mentored by Judge Mansmann, recalling her deep commitment to judicial collegiality, a commitment that lasted until the final days of her life.

Judge Joy Flowers Conti, currently a jurist on the U.S. District Court where Carol Mansmann began her own judicial career, was a colleague of "Professor Mansmann's" on the faculty at Duquesne

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Law School. They remained life-long friends. Judge Conti shares some personal recollections. She then analyzes one noteworthy decision authored by Judge Mansmann, the logic of which was later embraced by the United States Supreme Court, to illustrate the power of Carol Mansmann's jurisprudential work, even years after her death.

Justice Cynthia Baldwin, a retired justice of the Pennsylvania Supreme Court now in private practice at Duane Morris LLP, was a student of Carol Mansmann's at Duquesne Law School, and became a close friend. Justice Baldwin reflects upon Judge Mansmann's remarkable ability to juggle a hundred different tasks at home and in the courtroom and of her natural gift for teaching others, even in the face of enormous personal hardship.

This special issue dedicated to Judge Mansmann contains additional articles of unique significance. Circuit Judge Dolores Sloviter, who served as Chief Judge of the Third Circuit between 1991 and 1998, becoming a close friend and colleague of Judge Mansmann, has graciously permitted the *Duquesne Law Review* to reprint her remarks given at Judge Mansmann's memorial service, which originally appeared in the *Federal Reporter*. Chief Judge Donetta Wypiski Ambrose of the United States District Court for the Western District of Pennsylvania, one of Judge Mansmann's closest friends who shared a Polish heritage and a desire to excel, contributes a short piece in which she describes Judge Mansmann as her inspiration for what a good judge, a good woman, and a good person should be.

Finally, two substantive pieces are included in this issue. The Honorable D. Michael Fisher, former Attorney General of Pennsylvania and currently a Third Circuit Judge, worked with Carol Mansmann in the District Attorney's office in the early 1970s, and later was appointed to fill her vacancy on the U.S. Court of Appeals. Judge Fisher writes about federal criminal sentencing, a topic of deep concern for Carol Mansmann throughout her public career. Sister Melanie DiPietro, a friend of both Carol and Jerry Mansmann for decades, writes about nonprofit governance accountability, another subject that interested Judge Mansmann because of her commitment to service in myriad forms.

The tributes contained in this volume are rich yet different. All of those writing in the pages of this special issue agree on one essential fact: The eloquent and elegant Judge Carol Los Mansmann was destined to be a trailblazer.

Carol Los was born in 1942 in Pittsburgh's "Polish Hill" neighborhood. She matriculated at Duquesne University during

the early 1960s, determined to make her mark. She was selected as a Duquesne "Covergirl,"<sup>1</sup> earned top academic honors, then enrolled at Duquesne University School of Law in 1964, where she excelled. It was here that she encountered role models like the famous trial lawyer, F. Lee Bailey. It is also where she met Jerry Mansmann, a fellow law student whom she would marry in June of 1970.

As one of only two women graduates in her law school class,<sup>2</sup> Carol Los struggled with the then-prevailing societal view that women were not destined to be professionals. Only one law firm interviewed her for a job;<sup>3</sup> she received no offer. It was not until the next year that District Attorney Robert Dugan hired Mrs. Mansmann as an attorney in his office.<sup>4</sup> She became the first female prosecutor in Allegheny County to try and win a murder case.<sup>5</sup> She also became the youngest woman to argue before the U.S. Supreme Court, in 1970, winning a significant victory in *Chambers v. Marone*,<sup>6</sup> expanding police power to search automobiles.

After discovering that she and her husband were unable to have children, Carol Mansmann decided to take a different path to parenting. In 1972, the Mansmanns adopted an infant daughter, Casey, followed by—over the next decade—children Megan, Patrick, and Michael. Carol embraced the joys of child-rearing with gusto, integrating that new calling with an equally new career as a Professor at Duquesne Law School,<sup>7</sup> while simultaneously practicing law with her husband at the firm of McVerry, Baxter & Mansmann.

The couple accepted an assignment as Special Assistants to the Attorney General of Pennsylvania, making headlines by defending

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1. See Letter from Linda Schorr, Director, Alumni Relations, Duquesne University, to Honorable Carol Mansmann (July 16, 1986) (enclosing photos of 1964 "Campus Cover Girl") (on file with Mansmann family).

2. See "90 in District Pass Bar Exams," (1967) (including Carol Los among those passing the Pennsylvania Bar exam), Mansmann family papers.

3. For a sample application letter, see "(Miss) Carol M. Los to 'Gentlemen'" (May 15, 1965), Mansmann family papers.

4. See "Duggan Names Woman Aide" (1967), Mansmann family papers.

5. See *Wilksburg Youth Faces Life Term: Jury Returns Murder Verdict in Engineer's Death*, undated 1968, Mansmann family papers; William A. White, *1<sup>st</sup> Degree: Girl prosecutor says crimes justifies verdict*, VALLEY DISPATCH (Tarentum, PA), January 22, 1969.

6. 399 U.S. 42 (1970).

7. See "Juris Talks with Carol Mansmann on Appellate Advocacy" (undated), Mansmann family papers.

the state's abortion laws in the United States Supreme Court.<sup>8</sup> Carol was tapped to argue the case in the High Court, dazzling the nine Justices. The vivacious and razor-sharp Mrs. Mansmann swiftly earned a reputation as a lawyer's lawyer. Her deep respect for the law and her warm, disarming style made her a formidable opponent in any courtroom.

In 1982, President Ronald Reagan nominated Carol Los Mansmann—at the age of thirty-nine—to serve on the United States District Court for the Western District of Pennsylvania.<sup>9</sup> After taking the oath of office from Supreme Court Justice Sandra Day O'Connor—the first female Justice, who had recently taken her seat on the nation's highest Court—Judge Mansmann told well-wishers that she had “come a long way for a Polish girl from Pittsburgh.”

Even as she became a prominent legal figure in the region, Carol Mansmann reserved boundless energy to raise her children, to mentor young lawyers—including up-and-coming leaders like Donetta Wypiski Ambrose, whom she encouraged to run for the state bench, Joy Flowers Conti, Sister Melanie DiPietro, Maureen Lally-Green and others—and to bake her famous loaves of Polish bread, which she distributed to appreciative fellow judges each Christmas.

Three short years after her ascent to the federal trial bench, President Reagan tapped Judge Mansmann for a promotion, appointing her to the U.S. Court of Appeals for the Third Circuit.<sup>10</sup>

Now just one step away from the Supreme Court in Washington, Judge Mansmann gained national prominence. She wielded her judicial pen with wisdom and compassion, writing influential decisions dealing with employment discrimination and complex federal statutes. She became a legal icon in Pittsburgh, energizing

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8. See *City Couple Named Abortion Defenders*, PITTSBURGH PRESS, October 4, 1974, at 15; Milton Jaques and Dave Leherr, *U.S. Court Rules Out Abortion Act in Pa.*, PITTSBURGH POST-GAZETTE, undated 1971, Mansmann family papers.

9. See Fritz Huysman, *Five recommended as fit for federal bench*, PITTSBURGH POST-GAZETTE, September 25, 1981, at 4; Kathy Kiely, *First Woman Federal Judge for Region Sworn In*, PITTSBURGH PRESS, April 9, 1982. See also Letter of Chief Justice Warren E. Burger, United States Supreme Court, to Carol Mansmann (March 19, 1982) (congratulating Judge Mansmann on appointment), Mansmann family papers.

10. See Tony Locy, *Trailblazer: Judge Mansmann up for Circuit Court*, PITTSBURGH PRESS, undated 1985, Mansmann family papers; *Mansmann to begin Court duties April 22*, undated, Mansmann family papers; PITTSBURGH CATHOLIC, May 24, 1985 at 6 (photo of Bishop of Pittsburgh congratulating Judge Mansmann).

and mentoring a new generation of young lawyers.<sup>11</sup> Always, her commitment to justice and the rule of law were paramount. As Judge Mansmann herself told an audience at a commencement exercise at Slippery Rock University:

I really think that it is important for us to realize and reaffirm that our nation really *is* founded on the concept of the rule of law, and for Americans, law reflects the moral life of our nation, and as well, law leads us and directs us to the greater good.<sup>12</sup>

In 1989, Carol Mansmann was diagnosed with breast cancer, beginning a battle for her life that she would fight courageously for thirteen years. Despite the strain of treatment, Judge Mansmann continued to tackle a full load of cases, until the disease slipped into remission. With unflagging determination, she authored opinion after opinion that shaped the contours of federal law, causing some court-watchers to predict that she was a likely candidate for elevation to the Supreme Court.<sup>13</sup>

Judge Mansmann accepted such predictions with good humor. Yet her more pressing ambition was to help guide young men and women, so that they could find fulfillment in the legal profession that she loved. As she told a crowd at the Widener Law School commencement ceremonies in 1994:

I had a job interview I will never forget: the irrelevant questions and the rumor—that I later heard—that I wasn't hired because, as a woman, I just wasn't going anywhere in the legal field, and I just didn't know my place. Well you can imagine my feelings years later, when the senior partners of that firm came into *my* courtroom to ask *my* advice on their case. And yes, I know my place now, as a lawyer, as a judge. I just have to convince the President that I'm due for a promotion.<sup>14</sup>

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11. See, e.g., *The Honorable Carol Mansmann discusses her career; sex discrimination; women in the Courtroom*, THE PITTSBURGH WOMAN, April, 1985; *The Trials and Era of Judge Carol Los Mansmann*, PITTSBURGH PRESS SUNDAY MAGAZINE, October 26, 1986.

12. Carol Los Mansmann, Commencement Address, Slippery Rock University, Slippery Rock, PA, 1988.

13. See, e.g., Letter of Senator John Heinz to Carol Mansmann (February 23, 1983) (noting that TIME magazine listed her as a "gifted and indefatigable judge.") See also TIME, undated 1983, Mansmann family papers.

14. Carol Los Mansmann, Commencement Address, Widener Law School, Harrisburg, Pa., 1994.

There was no job in the world more satisfying for Carol Los Mansmann than sitting on the Third Circuit Court of Appeals. Along with colleagues including Chief Judge Doris Sloviter, Judges Joseph Weis and Ruggero Aldisert, newly appointed Judge Samuel Alito, and other top jurists, Judge Mansmann helped to establish the Third Circuit as one of the leading appellate courts in the nation.

With the recurrence of her cancer in 1997, however, Carol Mansmann's indomitable energy seemed to have met its match. She endured a risky bone marrow transplant that nearly killed her. She still reported to work and continued to type brilliant opinions; yet the disease was taking its toll.

There were still joyous moments, including the marriage of her daughter, Megan, in late 1997, and the birth of her first grandchild, Caitlin. There was the creation of the Carol Los Mansmann Award for Distinguished Public Service, bestowed in 2001 upon Justice Sandra Day O'Connor, while Judge Mansmann watched proudly from the audience. Justice O'Connor told a crowd of over a thousand at Duquesne University:

I'm especially pleased to receive an award named for Carol Los Mansmann. She's a wonderful judge as you know here in Pennsylvania . . . . She and I were both appointed to the federal bench in the early 1980s, by the same President, Ronald Reagan. I had the privilege, actually, of swearing in Judge Mansmann when she went on the District Court and then again when she went on the Court of Appeals. And Judge Mansmann is considered to be among a very distinguished class of jurists, which makes the naming of this award so appropriate and makes me so pleased to have it.<sup>15</sup>

Despite losing her hair and requiring a cane to conquer the walk into the courthouse, Judge Mansmann continued her tireless journey as a judge and public servant, celebrating twenty years on the bench with her law clerks and myriad well-wishers. Until, in 2002, that journey—inexplicably—was cut short.

Her husband, Jerry Mansmann, stated in a touching eulogy at St. James Catholic Church in Sewickley:

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15. Sandra Day O'Connor, Remarks on the Occasion of Receiving the First Carol Los Mansmann Award for Distinguished Public Service (Sept. 21, 2001).

To Carol, work and her responsibilities as a federal judge were absolutely utmost in her life. Just recently going to the funeral home and seeing the American flag flying at half mast on the federal courthouses in her honor, was a poignant reminder of the importance and significance of her position. Carol's cases, and her interaction with her colleagues on the federal bench, sustained her, gave her purpose, and energized her, even when disease was draining her normal, boundless energy . . . .

I tried to think of a few words that could describe Carol. Two that come to mind are from a book titled *Grace and Grit*. "Grace" is a word that beautifully describes Carol and how she treated everyone, no matter what their status in life. She reached out, gave to everyone, gave everything she had. No favor was too great to ask of Carol—she would find a way to do it. "Grit," although it's not really a very pretty word, is one that describes Carol's determination. That determination took many forms—in getting the job done, in seeing that justice was done, in seeing that our children were taken care of, in making the effort to get friends together, and in the last few years, the determination just to get into the office, and keep as normal a life as possible.

Jerry Mansmann concluded the eulogy by saying:

At a recent family wedding, Carol's sister, Katie, gave a toast in Polish that went something like this: "*Yisja, yutra, foya*," which translated means, "today she is ours, tomorrow she is yours." I think all of us should propose a toast to God, and make an adaptation of that, which would be "today she is yours, but she'll always be ours . . . ." <sup>16</sup>

Yet the story of Carol Los Mannsmann's life is one brimming with energy and new beginnings, rather than sad endings.

In 2003, a scholarship fund was established in Judge Mansmann's name for female students who aspired to study law at Duquesne University—that fund soon overflowed with contributions. In 2005, the official portrait of Judge Mansmann was unveiled at a special session of the Third Circuit Court of Appeals, adding her likeness to the pantheon of heroes, and heroines, who would in-

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16. J. Jerome Mansmann, Remarks at Funeral Service for Judge Carol Los Mannsmann (Mar. 14, 2002), Mansmann family collection.



spire justice—for future generations—in the very courthouses where she had dispensed justice.

The Carol Los Mansmann Award for Distinguished Public Service continues to recognize prominent figures in American law, paying tribute to those special individuals who reflect those durable qualities possessed by Judge Mansmann.

In all of these ways, the memory of Carol Mansmann's shining example continues to serve as a torch, guiding and inspiring new generations of women and men, as they make lasting contributions to the legal profession.

Here is the essence of that message, in Carol Mansmann's own words:

Each of us as Americans has been handed that priceless gleaming jewel—the Constitution and the legal system of our country. As lawyers it is our special duty to hold that jewel—and we hold it for such a little while on this earth—and we must someday pass it on, intact or shattered—to those who come after us. So think today how you will answer, in say forty or fifty years, when your children come to you and say, “what did you do to keep that jewel untarnished and intact?” And each of us is going to have to answer—to history, if to no other.

So then when you leave this life, when your work is done, and your time on earth has run, the spirits of those great jurists and lawyers of history—of Judith the Judge of ancient Israel, of Blackstone, Cardozo, all of their colleagues who have served—the blindfolded Lady of Justice will say to you, “well done.”<sup>17</sup>

Like many of those who participated in the special program held at Duquesne University on April 4, 2007, honoring U.S. Supreme Court Justice Samuel A. Alito Jr. with the second Carol Los Mansmann Award for Distinguished Public Service, I not only knew Carol Mansmann, but I was shaped by her in my own career.

When I graduated from law school in the early '80s, clerking for Judge Donald Ziegler in the U.S. District Court for the Western District of Pennsylvania, Judge Mansmann had just been appointed to that court. I knew her then as the energetic young

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17. Mansmann, *supra* note 14.

blonde-haired lady who did not *look* like a high-powered judge. (In fact, a famous story circulated around the courthouse that a parking attendant in the basement garage stopped her and said: "Hey, *honey*, these spaces are for *judges*." Judge Mansmann shot a look at him and replied: "That's *honey* 'your honor' to you, buster.") Judge Mansmann was known to work until midnight many nights, but she seemed to bring that courthouse to life with her magical enthusiasm for everything connected to the law.

In 1985, when I began legal practice at the firm of Mansmann, Cindrich & Titus, I worked closely with Carol's husband, J. Jerome Mansmann. In this context, I came to know Judge Mansmann—by this time a prominent Third Circuit Judge—in a completely different role: as the enthusiastic hostess of our summer law clerk parties at her stately yet fun-filled home in Sewickley; and as a friend to whom young lawyers gravitated, whenever we were making important life decisions.

In the early 1990s, I recall sitting in the basement of the U.S. Steel building, sipping a cup of tea with Carol, as I was thinking about switching to a full-time career in law teaching. Carol immediately became energized and *insisted* that I teach at Duquesne Law School, her own *alma mater*, an institution of which she was fiercely proud. I will always be indebted to Carol for her insight and guidance in steering me toward my new professional home. I am not alone. There are innumerable lawyers, judges, and law professors throughout the nation who have benefited from her boundless energy, good judgment, and unlimited capacity to help others.

In this special edition of the *Duquesne Law Review* dedicated to Judge Carol Los Mansmann, readers will learn about this remarkable jurist from individuals who knew her best and witnessed first-hand her remarkable voyage in law and public service.

It is significant that the honoree who recently received the second Carol Los Mansmann Award at Duquesne University—Justice Samuel A. Alito, Jr.—insisted that this issue of the Law Review be dedicated to Judge Mansmann, rather than to his own accomplishments. Justice Alito and Judge Mansmann served together on the United States Court of Appeals for the Third Circuit for twelve years. Like those other contributors to this issue, Justice Alito was shaped in his own life and career by Carol Mansmann, as his inspiring introduction recounts.

Anyone who knew Carol Mansmann knows that she would never have permitted a special publication like this to have even a

hint of gloominess to it on her account. Judge Mansmann thrived on positive energy and celebrations—the bigger the better. She would have insisted that this issue of the *Duquesne Law Review* belong to the present, not to the past. She would have wanted it to pay tribute to the ongoing work of those jurists who came before her as well as those who continue to labor in courthouses and judicial chambers to sculpt the law and thus perpetuate the rule of law in our democratic republic.

In 2001, I was privileged to organize the program at which the first Carol Los Mansmann Award was bestowed on Justice Sandra Day O'Connor at Duquesne University. After that program, Judge Mansmann wrote me a hand-written note that I still cherish. She was very sick from cancer by this time. But she still never forgot to send a note of thanks, or to give a person credit for something, even if one didn't deserve it. In this letter that I saved in my desk drawer, Judge Mansmann wrote: "Dear Ken—You have my deepest gratitude for the wonderful program . . . . How will you top this?"

This issue of the *Duquesne Law Review* is one effort to do just that. Nothing would have made Carol Mansmann more proud than to witness these tributes to her work, her life, and her career in the pages of this premiere scholarly publication of the Law School that meant so much to her. In these pages, many of the leaders of the bench and bar who knew Carol Los Mansmann best share their thoughts, reflections, memories, and insights about this extraordinary jurist and her remarkable career in law and public service.

This issue is dedicated to her husband, Jerry, to her children—Casey, Megan, Patrick and Michael—and to her grandchildren—Caitlin Gallagher, Finnegan Gallagher, and Brady Rygalsky—in loving memory of the woman who meant so much to all of us.